

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:19-CR-432-1FL(4)

UNITED STATES OF AMERICA)	
)	RESPONSE IN OPPOSITION
v.)	TO MOTION FOR RELEASE
)	PENDING SENTENCING
CHARLES GILBERT MURPHY)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby responds in opposition to the defendant's motion for review of his detention pending sentencing [D.E. 39], and states the following:

1. As was shown through fully-litigated detention proceedings before Judge Numbers, the defendant is a serial fraud artist. The instant offense is strikingly similar to his prior federal fraud conviction before the late United States District Judge James C. Fox, and was committed in such fashion as to avoid his substantial restitution obligations to victims in his that prior federal case. In the instant offense, the defendant defrauded dozens of individuals in a series of new cons, using false identities, stolen identities, as well as his wife, daughters, and corporate shells, to mask his role in the offense conduct. For these and other reasons, the Court correctly found that the defendant posed an ongoing danger to the public if released – and that danger could not be abated through a release to the defendant's family with electronic monitoring or house arrest.

2. Following the defendant's guilty plea, the court was obligated to detain the defendant under Section 3143, except upon a clear and convincing showing that the defendant did not pose a flight risk or danger to the community.

3. Nothing in the defendant's motion has disturbed the underlying 3142 factors in this case. Although the COVID pandemic is a serious health concern, it is only relevant under the Bail Reform Act to the extent it may bear upon the nature and characteristics of the defendant. Even then, that factor must be weighed against all of the other factors, which clearly point to the defendant's continued detention. To the extent that the court finds fault with the circumstances of the defendant's detention, the Government respectfully submits that such concerns should be addressed through directions to the United States Marshals Service, not through an order of release.

4. Since the defendant's motion fails to address or overcome the underlying risks that the defendant poses to the public, which were already thoroughly considered by the Court, the defendant has failed to meet his burden to show by clear and convincing evidence that he should be released. Indeed, under the defendant's proposed release plan, he would be placed back into the custody of the very family that he used to commit the offenses of conviction.

5. The Government also notes that by virtue of the defendant's plea to Wire Fraud and Aggravated Identity Theft, the defendant faces a substantial period of incarceration on this, his second federal fraud conviction. The PSR in this matter reflects that pending the sentencing date established by the court, the defendant will

serve jail time that is well within the advisory guideline, and mandatory prison time, that the defendant will face at sentencing. Likewise, the defendant will be afforded credit for the time he serving while he awaits sentencing.

WHEREFORE, the United States respectfully requests that this Court deny the defendant's motion for release from custody pending sentencing.

Respectfully submitted this 19th day of November, 2020.

ROBERT J. HIGDON, JR.
United States Attorney

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CERTIFICATE OF SERVICE

This is to certify that I have this 19th day of November, 2020, served a copy of the foregoing upon the defendant by CM/ECF as follows:

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